

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 7
	:	
CHARLES RANDALL HAMBLLEN and	:	CASE NO. 05-95215-JB
JANET SMITH HAMBLLEN,	:	CASE NO. 05-95216-JB
BROOKSTONE FINE WOOD	:	CASE NO. 05-95217-JB
PRODUCTS, INC.,	:	Jointly Administered Under
CLOSET & STORAGE SOLUTIONS, LLC	:	CASE NO. 05-95215-JB
Debtors.	:	
	:	
<hr/> S. GREGORY HAYS, Chapter 7 Trustee	:	
for Charles Randall Hamblen and	:	
Janet Smith Hamblen, Brookstone Fine	:	
Wood Products, Inc., and Closet	:	
Storage Solutions, LLC,	:	
Plaintiff,	:	
	:	
v.	:	ADVERSARY PROCEEDING
	:	
HAMBLLEN FAMILY IRREVOCABLE TRUST;	:	NO. 06-06394
LONNA HARRIS, individually and as Trustee of	:	
the Hamblen Family Irrevocable Trust; SARA ANN	:	
JONES SMITH, individually and as Trustee of the	:	
Hamblen Family Irrevocable Trust; GRANT K.	:	
GIBSON, individually and as Trustee of the	:	
Hamblen Family Irrevocable Trust, of NPPH HC,	:	
of 230 Woodward Trust, of 625 Atwood Trust, and	:	
of 12230 Cumming Highway Trust; NPPH HC;	:	
JANET SMITH HAMBLLEN; CHARLES	:	
RANDALL HAMBLLEN; 12230 CUMMING	:	
HIGHWAY TRUST; 230 WOODWARD TRUST,	:	
625 ATWOOD TRUST, and	:	
HALSTIN COMPANY, LLC,	:	
	:	
Defendants.	:	
	:	

MOTION FOR ENTRY OF DEFAULT JUDGMENT AGAINST
DEFENDANT NPPH HC

COMES NOW S. Gregory Hays, Chapter 7 Trustee for Charles Randall Hamblen and Janet Smith Hamblen, Brookstone Fine Wood Products, Inc., and Closet Storage Solutions, LLC, Plaintiff herein, pursuant to Federal Rule of Civil Procedure 55, incorporated herein by Federal Rule of

Bankruptcy Procedure Rule 7055, and hereby moves for entry of default judgment against Defendant NPPH HC ("NPPH") in the above-styled adversary proceeding. The claims against NPPH are for declaratory judgment, for turnover, and for avoidance and recovery of avoidable transfer.

Specifically, the Trustee seeks a declaratory judgment finding that the alleged transfer of Defendants Charles Randall Hamblen's and Janet Smith Hamblen's (the Hamblens") one hundred percent (100%) interest in Halstin Company, LLC ("Halstin") to the Hamblen Family Irrevocable Trust never took place, is void and of no effect, and that one hundred percent (100%) interest in Halstin remains vested in the Hamblens' bankruptcy estate under the custody and control of the Trustee. Alternatively, if the transfer of the Hamblens' interest in Halstin Company, LLC did occur, the Trustee seeks the avoidance and recovery of such transfer as a violation of the automatic stay, as an unauthorized post-petition transfer under 11 U.S.C. § 549, or as a fraudulent conveyance under O.C.G.A. § § 18-2-22 et seq. (2001). The Trustee further seeks a finding that he has the sole authority, as representative of the Hamblens' estate, to sell, transfer or convey any and all real and personal property owned by Halstin, including but not limited to the commercial real estate located at 12230 Cumming Highway, Canton, Georgia.

The accompanying Brief and Affidavit of Counsel, attached as Exhibit "A" to the Brief, are filed in support of Plaintiff's Motion.

WHEREFORE, Plaintiff seeks entry of a judgment as set forth above, and for such other and further relief as may be just and proper.

This 21st day of March, 2007.

LAMBERTH, CIFELLI, STOKES
& STOUT, P.A.
Attorneys for S. Gregory Hays,
Chapter 7 Trustee

By: /s/ A. Alexander Teel
A. Alexander Teel
Georgia Bar No. 701490

3343 Peachtree Road, NE, Suite 550
Atlanta, Georgia 30326-1009
(404) 262-7373

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 7
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CHARLES RANDALL HAMBLEN and	:	CASE NO. 05-95215-JB
JANET SMITH HAMBLEN,	:	CASE NO. 05-95216-JB
BROOKSTONE FINE WOOD	:	CASE NO. 05-95217-JB
PRODUCTS, INC.,	:	Jointly Administered Under
CLOSET & STORAGE SOLUTIONS, LLC	:	CASE NO. 05-95215-JB
Debtors.	:	
	:	
S. GREGORY HAYS, Chapter 7 Trustee	:	
for Charles Randall Hamblen and	:	
Janet Smith Hamblen, Brookstone Fine	:	
Wood Products, Inc., and Closet	:	
Storage Solutions, LLC,	:	
Plaintiff,	:	
	:	
v.	:	ADVERSARY PROCEEDING
	:	
HAMBLEN FAMILY IRREVOCABLE TRUST;	:	NO. 06-06394
LONNA HARRIS, individually and as Trustee of	:	
the Hamblen Family Irrevocable Trust; SARA ANN	:	
JONES SMITH, individually and as Trustee of the	:	
Hamblen Family Irrevocable Trust; GRANT K.	:	
GIBSON, individually and as Trustee of the	:	
Hamblen Family Irrevocable Trust, of NPPH HC,	:	
of 230 Woodward Trust, of 625 Atwood Trust, and	:	
of 12230 Cumming Highway Trust; NPPH HC;	:	
JANET SMITH HAMBLEN; CHARLES	:	
RANDALL HAMBLEN; 12230 CUMMING	:	
HIGHWAY TRUST; 230 WOODWARD TRUST,	:	
625 ATWOOD TRUST, and	:	
HALSTIN COMPANY, LLC,	:	
	:	
Defendants.	:	
	:	

BRIEF IN SUPPORT OF MOTION FOR ENTRY OF DEFAULT JUDGMENT
AGAINST DEFENDANT NPPH HC

This adversary proceeding was commenced by S. Gregory Hays, Chapter 7 Trustee for Charles Randall Hamblen and Janet Smith Hamblen, Brookstone Fine Wood Products, Inc., and Closet Storage Solutions, LLC, Plaintiff herein, against Defendant NPPH HC ("NPPH") seeking entry of a declaratory judgment, for turnover, and for avoidance and recovery of avoidable transfer.

Specifically, the Trustee seeks a declaratory judgment finding that the alleged transfer of Defendants Charles Randall Hamblen's and Janet Smith Hamblen's (the Hamblens") one hundred percent (100%) interest in Halstin Company, LLC ("Halstin") to the Hamblen Family Irrevocable Trust never took place, is void and of no effect, and that one hundred percent (100%) interest in Halstin remains vested in the Hamblens' bankruptcy estate under the custody and control of the Trustee. Alternatively, if the transfer of the Hamblens' interest in Halstin Company, LLC did occur, the Trustee seeks the avoidance and recovery of such transfer as a violation of the automatic stay, as an unauthorized post-petition transfer under 11 U.S.C. § 549, or as a fraudulent conveyance under O.C.G.A. § § 18-2-22 et seq. (2001). The Trustee further seeks a finding that he has the sole authority, as representative of the Hamblens' estate, to sell, transfer or convey any and all real and personal property owned by Halstin, including but not limited to the commercial real estate located at 12230 Cumming Highway, Canton, Georgia.

A Certificate of Service (Doc. #4) evidences service pursuant to Bankruptcy Rule 7004 of the Summons and Complaint on September 19, 2006. Another Certificate of Service (Doc. #10) evidences service of the Amended Complaint and Reissued Summons #1 on September 29, 2006.

As shown by the Affidavit of Counsel attached to this Brief and marked Exhibit "A," NPPH has not answered or otherwise plead with respect to the Complaint or the Amended Complaint filed against NPPH. NPPH is in default, and Plaintiff has requested that the clerk enter default on the record pursuant to Bankruptcy Rule 7055 incorporating Federal Rule of Civil Procedure 55(a).

As reflected on Exhibit "A," NPPH is neither incompetent nor an infant and is not engaged in active military service. All other requirements for entry of judgment by default are met.

Plaintiff is entitled to judgment against NPPH as set forth above, and for such other relief as may be just and proper.

This 21st day of March, 2007

LAMBERTH, CIFELLI, STOKES
& STOUT, P.A.
Attorneys for S. Gregory Hays,
Chapter 7 Trustee

By: /s/ A. Alexander Teel
A. Alexander Teel
Georgia Bar No. 701490

3343 Peachtree Road, NE, Suite 550
Atlanta, Georgia 30326-1009
(404) 262-7373

EXHIBIT "A"

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
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IN RE:	:	CHAPTER 7
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PRODUCTS, INC.,	:	Jointly Administered Under
CLOSET & STORAGE SOLUTIONS, LLC	:	CASE NO. 05-95215-JB
Debtors.	:	
	:	
S. GREGORY HAYS, Chapter 7 Trustee	:	
for Charles Randall Hamblen and	:	
Janet Smith Hamblen, Brookstone Fine	:	
Wood Products, Inc., and Closet	:	
Storage Solutions, LLC,	:	
Plaintiff,	:	
	:	
vi.	:	ADVERSARY PROCEEDING
	:	
HAMBLLEN FAMILY IRREVOCABLE TRUST;	:	NO. 06-06394
LONNA HARRIS, individually and as Trustee of	:	
the Hamblen Family Irrevocable Trust; SARA ANN	:	
JONES SMITH, individually and as Trustee of the	:	
Hamblen Family Irrevocable Trust; GRANT K.	:	
GIBSON, individually and as Trustee of the	:	
Hamblen Family Irrevocable Trust, of NPPH HC,	:	
of 230 Woodward Trust, of 625 Atwood Trust, and	:	
of 12230 Cumming Highway Trust; NPPH HC;	:	
JANET SMITH HAMBLLEN; CHARLES	:	
RANDALL HAMBLLEN; 12230 CUMMING	:	
HIGHWAY TRUST; 230 WOODWARD TRUST,	:	
625 ATWOOD TRUST, and	:	
HALSTIN COMPANY, LLC,	:	
	:	
Defendants.	:	

AFFIDAVIT OF COUNSEL

Personally appeared before me the undersigned attesting official, duly authorized to administer oaths, A. Alexander Teel, who, upon being duly sworn, deposes and says on oath as follows:

1.

I am an attorney with the law firm of Lamberth, Cifelli, Stokes & Stout, P.A., counsel of record for S. Gregory Hays, Chapter 7 Trustee for Charles Randall Hamblen and Janet Smith Hamblen, Brookstone Fine Wood Products, Inc., and Closet Storage Solutions, LLC, Plaintiff in the above-styled adversary proceeding.

2.

The above-styled adversary proceeding was commenced on September 13, 2006, by the filing of Plaintiff's Complaint For Declaratory Judgment, For Turnover, and For Avoidance and Recovery of Avoidable Transfer (the "Complaint"). Plaintiff filed a First Amended and Restated Complaint For Declaratory Judgment, For Turnover, and For Avoidance and Recovery of Avoidable Transfer (the "Amended Complaint") on September 26, 2006. The standard 30-day time limit for filing an answer applies in this adversary.

3.

The Summons originally issued on September 14, 2006 ("Summons") and was reissued on September 28, 2006 upon the filing of the Amended Complaint ("Reissued Summons #1").

4.

The Summons and Complaint initially were served on September 19, 2006, by regular and certified, return receipt requested, U.S. Mail on Defendant NPPH HC ("NPPH") through its trustee, Grant K. Gibson, at 765 Crab Orchard Court, Roswell, GA 30076 and at P.O. Box 767488, Roswell, GA 30076. The certified mail receipts were returned "received."

5.

The Reissued Summons #1 and the Amended Complaint were served on September 29, 2006,

by regular and certified, return receipt requested, U.S. Mail on NPPH through its trustee, Grant K. Gibson, at the same addresses in paragraph 4. The certified mail envelope to the P.O. Box 767488 address was returned marked "unclaimed."

6.

A Certificate of Filing the Certificate of Service of the Complaint and the Summons was filed on September 19, 2006. A Certificate of Filing the Certificate of Service of the Amended Complaint and the Reissued Summons #1 was filed on September 29, 2006.

7.

NPPH has not filed an answer or motion in response to the Complaint or Amended Complaint within the standard thirty-day time period.

8.


NPPH is neither incompetent nor an infant and is not engaged in active military service.

9.

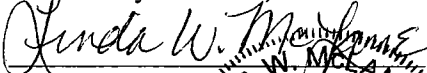
This Affidavit is made pursuant to Bankruptcy Rule 7055 and Rule 55 of the Federal Rules of Civil Procedure incorporated thereby for the purpose of support of Plaintiff's motion for entry of default judgment against NPPH.

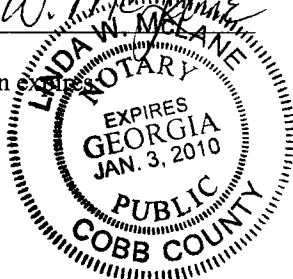
FURTHER AFFIANT SAITH NAUGHT.

This 21st day of March, 2007.


A. Alexander Teel
Georgia Bar no. 701490

Sworn to and subscribed before me
this 21st day of March, 2007


Notary Public
My commission expires



CERTIFICATE OF SERVICE

This is to certify that the undersigned has served a true and correct copy of the foregoing MOTION FOR ENTRY OF DEFAULT JUDGMENT AGAINST DEFENDANT NPPH HC and BRIEF IN SUPPORT OF MOTION FOR ENTRY OF DEFAULT JUDGMENT AGAINST NPPH HC by placing copies of same in the United States mail, postage prepaid, addressed as follows:

Parties listed on attached Exhibit "A"

This 21st day of March, 2007.

_____/s/ A. Alexander Teel_____
A. Alexander Teel
Georgia Bar No. 701490

LAMBERTH, CIFELLI,
STOKES & STOUT, P.A.
3343 Peachtree Road, NE, Suite 550
Atlanta, Georgia 30326-1022
(404) 262-7373

EXHIBIT "A"

Charles Randall Hamblen
12850 Highway 9
Suite 600-118
Alpharetta, GA 30004

Hamblen Family Irrevocable Trust
c/o Grant K. Gibson, Co-Trustee
P.O. Box 767488
Roswell, GA 30076

Janet Smith Hamblen
12850 Highway 9
Suite 600-118
Alpharetta, GA 30004

Hamblen Family Irrevocable Trust
c/o NPPH HC, Co-Trustee
Grant K. Gibson, Trustee of NPPH HC
765 Crab Orchard Court
Roswell, GA 30076

Hamblen Family Irrevocable Trust
c/o Lonna Harris, Co-Trustee
11658 Hixson Pike
Soddy Daisy, TN 37379-6318

Hamblen Family Irrevocable Trust
c/o NPPH HC, Co-Trustee
Grant K. Gibson, Trustee of NPPH HC
P.O. Box 767488
Roswell, GA 30076

Lonna Harris
c/o Nicholas W. Whittenburg
Miller & Martin, PLLC
832 Georgia Ave., Suite 1000
Chattanooga, TN 37402

Hamblen Family Irrevocable Trust
c/o Evan M. Altman
Northridge 400, Bldg. Two
8325 Dunwoody Place
Atlanta, GA 30350

Hamblen Family Irrevocable Trust
c/o Sara Ann Jones Smith, Co-Trustee
344 Sandpiper Drive
Punta Gorda, FL 33950

Lonna Harris, individually and as Co-Trustee
of Hamblen Family Irrevocable Trust
11658 Hixson Pike
Soddy Daisy, TN 37379-6318

Sara Ann Jones Smith
c/o W. Russell Patterson, Jr.
2400 International Tower/P'Tree Ctr.
229 Peachtree St., NE
Atlanta, GA 30303-1629

Sara Ann Jones Smith, individually and as Co-Trustee of Hamblen Family Irrevocable Trust
344 Sandpiper Drive
Punta Gorda, FL 33950

Hamblen Family Irrevocable Trust
c/o Grant K. Gibson, Co-Trustee
765 Crab Orchard Court
Roswell, GA 30076

Grant K. Gibson, individually, as Co-Trustee of
Hamblen Family Irrevocable Trust, as Trustee
of NPPH HC (which is itself a Co-Trustee of
Hamblen Family Irrevocable Trust), as Trustee of
230 Woodward Trust,
625 Atwood Trust
765 Crab Orchard Court
Roswell, GA 30076

Grant K. Gibson, individually, as Co-Trustee of
Hamblen Family Irrevocable Trust, as Trustee
of NPPH HC (which is itself a Co-Trustee of
Hamblen
Family Irrevocable Trust), as Trustee of 12230
Cumming Highway Trust, as Trustee of 230
Woodward
Trust, and as Trustee of 625 Atwood Trust
P.O. Box 767488
Roswell, GA 30076

12230 Cumming Highway Trust
c/o Grant K. Gibson, Trustee
765 Crab Orchard Court
Roswell, GA 30076

12230 Cumming Highway Trust
c/o Grant K. Gibson, Trustee
P.O. Box 767488
Roswell, GA 30076

230 Woodward Trust
c/o Grant K. Gibson, Trustee
765 Crab Orchard Court
Roswell, GA 30076

230 Woodward Trust
c/o Grant K. Gibson, Trustee
P.O. Box 767488
Roswell, GA 30076

625 Atwood Trust
c/o Grant K. Gibson, Trustee
765 Crab Orchard Court
Roswell, GA 30076

625 Atwood Trust
c/o Grant K. Gibson, Trustee
P.O. Box 767488
Roswell, GA 30076

NPPH HC
c/o Grant K. Gibson, Trustee
765 Crab Orchard Court
Roswell, GA 30076

NPPH HC
c/o Grant K. Gibson, Trustee
P.O. Box 767488
Roswell, GA 30076

Halstin Company, LLC
c/o J. Parkerson,
Registered Agent
12850 Highway 9
Suite 600-118
Alpharetta, GA 30004